

## Terms of Trade

Terms of Trade for :-

Countrystyle Qld Pty Ltd (ACN 114 730 371) ATF Burge Family Trust T/As Countrystyle Fencing (ABN 82 834 287 824)

and :-

Countrystyle Qld Pty Ltd (ACN 114 730 371) ATF Burge Family Trust T/As Countrystyle Cartage (ABN 82 834 287 824)

hereinafter called "the company". "Client" or "customer" refers to any person(s) or company to whom the company has made or supplied goods or services, as indicated by the entity named on the invoice.

### **a) Customer Acknowledgement:-**

- I. The Customer acknowledges agreement with these Terms and Conditions of Sale by the placement of an order (written or verbal) to purchase product(s) and/or services from the company.
- II. CountryStyle Fencing and CountryStyle Cartage are trading names of Countrystyle Qld Pty Ltd (ACN 114 730 371) ATF Burge Family Trust (ABN 82 834 287 827).
- III. Contracts of sale are between the entity named on the invoice (the Client) and Countrystyle Qld Pty Ltd ATF Burge Family Trust (the company).
- IV. All goods and services are supplied on these terms and conditions only and no person in the employment or otherwise as agent for the company has any authority to supply goods on any other terms and conditions or to vary these terms and conditions in any way whatsoever. Previous dealings shall not vary or negate these terms and conditions in any respect.
- V. The company reserves the right to vary any part of these Terms of Trade / Terms & conditions at any time.

### **b) Title To Goods:-**

- I. The goods shall remain the sole and absolute property of "the company" as legal and equitable owner and the Customer shall hold such goods as bailee only until such time as the Customer shall have paid the full price. The Customer shall be liable to "the company" in respect of any loss or damage to the goods during such bailment.

### **c) Payment:-**

- I. Payment terms are STRICTLY 7 days from date of invoice, unless a prior account has been approved.
- II. Approved Account holders - Trading terms are strictly 30\* days and payment is due 30 days following the month in which invoices and charges are debited to the account \*OR other such payment terms as approved (eg 14 or 21 days). For details on how to obtain an account application form please contact the company.
- III. Claims arising from invoices must be made in writing within 10 working days. No claims or returns will be recognised if made after 10 days from the date of the invoice.
- IV. All overdue amounts bear a 1.5% monthly finance charge compounded monthly on unpaid balance(s) and this shall commence accruing from the 1<sup>st</sup> day payment is overdue and shall continue until full payment is received.
- V. All costs incurred by the company for any dishonoured cheques/automatic withdrawals will be passed on to the client.
- VI. In the event of default of payment when due all costs of collection, including legal fees and court costs shall be paid by the client. Interest may also be charged at the current bank overdraft rate (OR finance charge as per clause c)IV above whichever is the higher) from the due date for payment until full payment is received

- VII. "The company" reserves the right to withdraw credit at any time.
- VIII. All goods remain the property of the company until paid for in full. In the event of non-payment, the company reserves the right to immediately and without notice retake possession of the goods (and for such purpose the Client irrevocably licenses the company, its employees, contractors, servants or agents to enter upon the premises at which the goods are located to so retake possession) and resell the goods after seven (7) days written notice to the Client and thereafter recover from the Client any amount by which the resale price is less than the price agreed to be paid by the Client, together with all costs and expenses suffered or incurred by the company as a result of the Client's default;
- d) General:-**
- I. All Quotations are valid for 30 days only.
  - II. In the event any section or portion of a section of these Terms and Conditions of Sale are deemed unlawful or unenforceable, that section or portion of a section shall be stricken from the Terms and Conditions of Sale, and the remaining terms shall continue in full force and effect.
- e) Fencing/Landscaping/Construction:-**
- I. All invoices from the company relating to construction work or the supply of goods and services under a construction contract as defined by BCIPA shall be considered payment claims made under the Building and Construction Industry Payments Act 2004 (Qld). Such clause shall be printed on invoice
  - II. Should we (***CountryStyle Fencing***), during the course of construction, strike unforeseen hindrances such as difficult terrain, underground obstructions such as rock etc, we reserve the right to revert to our current hourly rate for the extra time taken as a result of such obstructions. The client shall accept any such additional expenses and shall pay both the quoted amount and the additional amount as invoiced.
  - III. Should the distances supplied and/or estimated be not accurate or change for any reason; the total of the quotation will change. The final price will be worked out in proportion to the quoted price applied to the final distance of the fence, including labour and materials.
  - IV. Should the client request or agree to any alterations or additions to the specifications outlined in the supplied quote, the final price invoiced will be different to the price quoted. Should the alterations or additions result in a higher amount payable than that quoted above, the client agrees to pay both the quoted amount and the additional amount as invoiced.
  - V. Any necessary searches to locate underground utilities, such as power cables, water pipelines, gas/oil pipelines, telephone/communication lines etc, will be arranged by CountryStyle Fencing unless otherwise agreed. Any necessary costs incurred by CountryStyle Fencing in locating these underground utilities is to be paid by the client, and will be an additional cost to that quoted. If excavation is unavoidable in the vicinity of underground services, whilst all care is taken any damage to underground pipes & services will be repaired at the clients' expense.
  - VI. Wherein the period between acceptance of a quote and delivery of the relevant Goods, the Supplier incurs an increase in the cost of producing and/or delivering the Goods, the Supplier reserves the right to increase the quoted price of those Goods at any time prior to delivery (a 'price escalation'). The Purchaser shall accept any such price escalation, however the company will advise of any such escalation prior to materials being ordered, or commencement of any work.
  - VII. Should the client request work to commence without first obtaining a quote from the company, the client shall accept and be liable for all charges contained on the invoice, provided such charges are legitimate and in line with company rates and the goods and services supplied.

## **CONDITIONS OF CONTRACT CARTAGE:-**

- I. In these conditions:-
  - i) 'Carrier' shall mean the Company (CountryStyle Cartage), its servants and agents.
  - ii) 'Sub-Contractors' shall mean and Include:-
    - (1) All companies which are now subsidiaries of the Carrier within the meaning of that expression as defined in The Corporations Law.
    - (2) Railways operated by the Commonwealth or any State.
    - (3) Any other person, firm or company with whom the Carrier may arrange for the carriage of any goods the subject of this contract.
    - (4) And any person who is now or hereafter a servant, agent, employee, or sub-contractor of any of the persons referred to In (1), (2), and (3) above.
- II. The Carrier is not a Common Carrier and will accept no liability as such. All articles are carried and transported and all storage and other services are performed by the Carrier subject only to these conditions and the Carrier reserves the right to refuse the carriage or transport of articles for any person, corporation or company and the carriage or transport of any class of articles at its discretion.
- III. The Consignor hereby authorises the Carrier (if it should think fit to do so) to arrange with a sub-contractor or sub-contractors for the carriage of any goods the subject of this contract. Any such arrangement shall be deemed to be ratified by the Consignor upon delivery of the said goods to such sub-contractor or sub-contractors who shall thereupon be entitled to the full benefit of these terms and conditions to the same extent as the Carrier. In so far as it may be necessary to ensure that such sub-contractor or sub-contractors shall be so entitled the Carrier shall be deemed to enter into this contract for its own benefit and also as agent for the sub-contractor or sub-contractors.
- IV. If the Consignor expressly or impliedly instructs the Carrier to use or it is expressly or impliedly agreed that the Carrier will use a particular method of handling or storing the goods or a particular method of carriage whether by road, rail, sea, or air the Carrier will give priority to that method but if it cannot conveniently be adopted by the Carrier, the Consignor hereby authorises the Carrier to handle or store or to carry or have the goods carried by another method or methods.
- V. The goods are at the risk of the Consignor and not the Carrier and unless expressly agreed in writing and subject to Clause XV hereof the Carrier shall not be responsible in tort or contract or otherwise for any loss of or damage to or deterioration of goods or misdelivery or failure to deliver or delay in delivery goods including chilled, frozen, refrigerated or perishable goods either In transit or in storage for any reason whatsoever including without limiting the foregoing the negligence or wilful act or default of the Carrier or others and this clause shall apply to all such loss of or damage to or deterioration of goods or misdelivery or failure to deliver or delay in delivery of goods as aforesaid whether or not the same occurs in the course or performance by the Carrier of the contract or in events which are in the contemplation of the Carrier and/or the Consignor or in events which are foreseeable by them or either of them or in events which would constitute a fundamental breach of the contract or a breach of a fundamental term thereof.
- VI. The Carrier is authorised to deliver the goods at the address given to the Carrier by the Consignor for that purpose and It is expressly agreed that the Carrier shall be taken to have delivered the goods in accordance with this contract if at that address he obtains from any person a receipt or a signed delivery docket for the goods.
- VII. It is agreed that the person delivering any goods to the Carrier for carriage or forwarding is authorised to sign the consignment note for the Consignor.
- VIII. The Consignor expressly warrants with the Carrier that the Consignor is either the owner or the authorised agent of the owner of any goods or property the subject matter of this contract of carriage and by entering into this contract the Consignor accepts these conditions of contract for the Consignee as well as for all other persons on whose behalf the Consignor is acting.

- IX. Without derogating from Clause V. above it is expressly agreed that all the rights, Immunity, exemptions from and limitations of liability granted to the Carrier by the provisions set forth In the above conditions of contract shall have and continue to have their full force and effect in all circumstances, whether or not the same occur in the course of performance by the Carrier of the contract or are In the contemplation of the Carrier and/or the Consignor or are foreseeable by them or either of them or would constitute a fundamental breach of the contract or a breach of a fundamental term thereof.
- X. The Consignor hereby authorises any deviation from the usual route or manner of carriage of goods which may in the absolute discretion of the Carrier be deemed reasonable or necessary in the circumstances.
- XI. Without derogation from the provisions of Clause V. hereof a claim against the Carrier In respect of loss of or injury to goods entrusted to It for carriage pursuant to these terms shall not be enforceable unless the Consignor has given notice in writing to the Carrier of such loss or injury (a) where the goods have been delivered at the place contracted for, within five days after the date of such delivery (b) where the goods have not been delivered at the place contracted for, within five days after the claimant has become aware of such loss or injury. In calculating such period of five days no account shall be taken of any Saturday, Sunday and any day on which the premises of the Carrier concerned at the address at which such notice it given were closed to business during the whole of to usual business hours.
- XII. The Carrier's charges shall be considered earned as soon as the goods are loaded and despatched from the Consignor's premises. The Consignor will be and remain responsible to the Carrier for all its proper charges incurred for any reason.
- XIII. The provisions of these conditions of carriage shall apply to the container or containers or other packaging containing the goods and to any pallet or pallets delivered with the goods to the Carrier. The Consignor shall be responsible for the conformity of such containers packaging and pallets with any requirements of the Consignee and for any expense incurred by the Carrier arising from any failure so to conform.
- XIV. Where forwarding is delayed under instructions from the Consignor or by circumstances beyond the control of the Carrier, the goods may be warehoused or stored at the Carrier's sole discretion and at the Consignor's expense.
- XV. Every special instruction to the effect that charges shall be paid by the Consignee shall be deemed to include a stipulation that if the Consignee does not pay the said charges within seven (7) days or the date set for payment, or if no date set for payment, within seven (7) days of delivery or tended delivery of the goods then the Consignor shall pay the said charges.
- XVI. A charge may be made by the Carrier in respect of any delay in excess of sixty (60) minutes in loading or unloading occurring other than from the default of the Carrier, such permissible delay period commencing upon the Carrier reporting or loading or unloading, labour for which purposes being the responsibility and at the expense of the Consignor or Consignee.
- XVII. All goods to be forwarded shall be subject and liable in every respect to all terms, conditions and requirements which may be imposed by any highway, port, harbour, dock, railway, shipping, airways or any other Public Authority or Government Department or Officer and any additional expense or charges arising by reason of such terms and conditions or requirements shall be paid by the Consignor.
- XVIII. The consignor guarantees to the Carrier the accuracy of the particulars which are inserted on the consignment note and shall indemnify the Carrier against all loss, damages and expenses arising or resulting from inaccuracies in such particulars.